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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/316,199	05/21/1999	Michael J McCluskie	C1040/7006HC	7506

7590

04/23/2002

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EXAMINER

NGUYEN, DAVE TRONG

ART UNIT	PAPER NUMBER
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1632

DATE MAILED: 04/23/2002

18

Please find below and/or attached an Office communication concerning this application or proceeding.

Serial Number: 09/316,199
Art Unit: 1632



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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/316,199	5/21/99	McCluskie	C1040/7006 (HCL/MAT)

EXAMINER

ART UNIT	PAPER NUMBER
1632	10

DATE MAILED:

The specification has been amended, Claims 1, 20, 27 have been amended, claims 125-130 have been added by the amendment filed January 28, 2002.

Newly submitted claim 129 is now directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Originally filed claims or base claims are drawn to a method of administering an effective amount of an oligonucleotide of at least 8 nucleotides in length to a **subject in need of a mucosal immune response**, e.g., a subject that has already been identified as being in need of a mucosal immune response. However, claim 129 clearly embraces an invention directed to a combination method of identifying a subject that is in need of mucosal immune response, and of inducing an mucosal immunity in the identified subject. The combination method does not require the step of employing an subject that has already been identified as being in need of a mucosal immunity, and further, the method of the base claims do not require the materially distinct step of identifying a subject in need of a mucosal immunity. The specifically claimed method as recited in claim 129 was not claimed in the invention originally

claimed, and all outstanding issues under previous examinations were not directed to the method as claimed in claim 129.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 129 has been withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Elected claims 1-10, 12, 14-22 and 24-28, 125-128, 130, readable on species of 5' X1X2CGX3X4 3' wherein X1 is G, X2 is T, X3 is T, and X4 is T as a species of CpG motif, the species of colloidal dispersion system, the species of alum as non-oligo mucosal adjuvant, the species of subject at risk of developing an infectious disease, the species of infectious virus as a species of antigen, the species of intranasal route, to which the following grounds of rejection are applicable, are pending.

However, a reference relevant to the examination of this application may soon become available.

Ex parte prosecution is suspended for a period of six months from the mailing date of this letter.

Upon expiration of the period of suspension, applicant should make an inquiry as to the status of the application.

Any inquiry concerning this communication or earlier communications regarding the formalities should be directed to Patent Analyst Dianiece Jacobs, whose telephone number is **(703) 305-3388**.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Dave Nguyen* whose telephone number is **(703) 305-2024**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Deborah Reynolds*, may be reached at **(703) 305-4051**.

Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center number


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is **(703) 305-7401**.

Any inquiry of a general nature or relating to the status of this application should be directed to the *Group receptionist* whose telephone number is **(703) 308-0196**.

Dave Nguyen
Primary Examiner
Art Unit: 1632



**DAVE T. NGUYEN
PRIMARY EXAMINER**



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